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Poland considers restrictive biotech law - farmers fighting back

Report Categories:

Biotechnology

Grain and Feed

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Report Highlights:
Poland's parliament is considering a restrictive new law on cultivating agricultural biotechnology. With its agricultural potential threatened by increasing food imports and exasperated by how the political debate has frozen into indecision, many Polish farm groups have shifted to express their support to use the technology. These groups represent many hundreds of thousands of farmers, but risk having their message drowned out by a dedicated, well-financed GMO opposition movement. Poland is proposing restrictive coexistence measures on the crops.

General Information:
Poland’s Parliament (the Sejm) has started to debate a new, very restrictive legislative proposal

pertaining to agricultural biotechnology. The proposal envisages obligatory measures which will burden farmers interested in planting genetically modified crops. The proposed requirements, if approved by the Parliament, will likely prevent planting of modified crops in Poland on a commercial scale. Some of the details of the proposed regulations were presented in earlier FAS/Warsaw reports: including PL9005. FAS Warsaw has received a copy of draft implementing regulations for coexistence of biotech with conventional and organic crops, prepared by the Agriculture Ministry that were also presented for Parliaments review, included at the end of this document. Coexistence measures in the proposed document call for isolation zones between genetically modified corn and conventional and organic crops of 500 and 1,000 meters. The proposal is clearly not based on results of publicly available Polish science research and not in line with the EU's recommendations stating that Member State coexistence regulations have to be realistic, not have an inadvertent economic effect, and cannot be over burdensome. With this proposal the Agriculture Ministry is no longer following the recommendations from the Polish Corn Growers Association, Polish Oilseed Growers Association, the Polish Association of Cereal Producers, the Polish Poultry Council, the Grain and Feed Manufacturers Chamber, the Polish Food Council of the Ministry of Agriculture that are each pressing the Ministry, Parliament, and the public for scientific and fair regulation for ag. biotech. These groups represent hundreds of thousands of farmers in Poland.

Over the past several years Poland's Ministry of Environment has organized local initiatives aiming at creating a "GMO free" Poland and promoting similar European regional initiatives. Farmer organizations, scientists, and trade contacts in Poland continue to express their concern over the proposed regulation.

A public hearing on the proposal has been scheduled for February 9, 2010. Opponents to biotechnology have been very active in conducting activities aimed at gaining the attention of Polish Government (Ministry of Environment and Ministry of Agriculture and Rural Development) as well as Polish media. Supporters of the technology plan to turn out at the hearing and see if they can make progress.

Public statements supporting biotech are emerging. Polish growers are increasingly losing their competitiveness and face an invasion from the European Corn Borer that is a very real threat. Poland now imports more pork than it exports, and the cost of feed is the major problem according to the Polish Pork Producers Association. Meanwhile restrictive biotech laws deny farmers access to crops like modern corn varieties that easily beat this pest and reduce Poland's corn imports. In 2008 and 2009 Poland imported 730,000 tons of corn ($230 million) and 283,000 tons of corn ($69 million). Below please find one example of a letter send from the Polish Association of Cereal Producers to the Parliament requesting better, fair regulations on biotech.

Begin quote:

OPINION

of the Polish Association of Cereal Producers

concerning the **Act on the Genetically Modified Organisms Law** and the **Regulation concerning**

the detailed conditions for cultivating genetically modified plants

It would probably be impossible to prevent the coming into force of the Genetically Modified Organisms Law. However, it is possible to bring about possible amendments to the provisions of the Act, submitted for the first reading to the Parliament of the Republic of Poland on December 1, 2009. The Draft Act is excessively restrictive with respect to the producers who would like to cultivate corn carrying the M810bt gene. Therefore, it is necessary to take action to amend the Draft Act. We had better realize that only one corn variety is at stake in Poland and that with one gene only (M810bt) which confers European Corn Borer resistance. This statement is of utmost importance as certain groups, and in particular environmental circles, challenge the coexistence of modified corn with conventional and organic. Organic corn is cultivated on an acreage of 500 ha only in Poland, which is approximately 0.5% of the total; therefore, coexistence is possible. We can conclude based on the proposed legal arrangements that the Minister of the Environment is the leading minister for the Draft Act on the Genetically Modified Organisms Law. With respect to the Regulation concerning the detailed conditions for cultivating genetically modified plants, the Minister of Agriculture is the leading minister (or the minister requesting the regulation), which can adversely affect both legal acts. Quite dangerous proposals are contained in either. These are first of all restrictive penalties with no justification whatsoever which are in force in no other EU Member State. Second, and on top of those most unfavorable provisions, a possibility is suggested that arbitrary decisions could be taken with respect to the cultivation of genetically modified plants not only by the Minister of Agriculture, but also by a Provincial Inspector for Plant Health and Seed Inspection. According to Art. 177.1. the minister in charge of agricultural matters may prohibit the cultivation of genetically modified plants and their marketing as products or in products if there is a **suspicion** that they pose a threat to human or animal health or else to environmental safety; the Act amends the Act on plant protection in its Art. 81b(1.3) according to which the Provincial Inspector may prohibit the cultivation, sowing or planting specified plants on a designated area by way of an administrative decision in order to restrict the spread of genetically modified plants onto other crops. This comes even though corn has no capability of hybrid formation, nor self-seeding or weeds in this family exist.

Subjective judgment of a civil servant may not be the basis for imposing a ban on the cultivation or marketing of GMOs. Second, we make a plea to introduce a compensation scheme for farmers who have complied with all legal requirements in initiating and performing the cultivation of genetically modified plants before the ban was issued (liability of the State Treasury).

The coexistence of genetically modified, conventional and organic crops should be understood in the meaning of the European Commission's Guidelines, according to which none of the types of agriculture can be excluded from the European Union. Coexistence is related to the economic aspects of the cultivation of genetically modified plants only. The matters related to the safety of humans, animals and the environment have been subjected to in-depth scientific assessment before respective plant varieties were authorized for marketing.

No Member State is under an obligation to formulate legal regulations with respect to coexistence; national strategies based on Good Agricultural Practices should suffice. Spain is a good example; no legal regulations were imposed in this country and it seems that the share of genetically modified crops has been increasing every year. In Germany, in turn, Good Agricultural Practice is sufficient.

Executive regulations, which are subject to notification, may not prohibit, restrict or inhibit genetically modified crops. These should be drawn up based on publicly available and verifiable scientific data.

The only genetically modified plant authorized for cultivation in the European Union is MON 810 corn with the Bt gene which confers resistance to a pest named the European Corn Borer. There is no need in our opinion to develop rules for other plant varieties at the present stage, even if their authorization procedures are underway. Therefore, the debate on the cultivation of for example rapeseed seems groundless, given that it is highly unlikely for rape to be authorized for cultivation in the EU, considering the lack of political will of Member State representatives. Should the new variety be indeed authorized for cultivation, the Ministry has suitable instruments to regulate this matter, by way of amending the relevant regulations.

Considering the foregoing and based on the available scientific data on the coexistence of crops, we suggest that the following be adopted:

- **There is no need in our opinion to impose any additional obligations related to the specification of principles for isolation zones between conventional, genetically modified and organic crops in a legal act. We request that the model implemented in Spain, which operates perfectly, be adopted, according to which farmers follow recommendations from seed companies, with no buffer zones imposed administratively, and genetically modified crops coexist with conventional crops. All matters related to neighboring fields are resolved by farmers with no intervention from authorities, based on voluntary agreements. Similarly, we, the farmers of Poland, have 3-year experience in the cultivation of European Corn Borer resistant Bt corn; no disputes have ensued and no evidence to the unwanted presence of GMO on neighboring fields of other farmers has been found so far. This means that good agricultural practice and commonsensical approach to agricultural production are sufficient to achieve planned objectives and to avoid potential economic losses.**
- However, as we appreciate the complexity of matters related to coexistence, we think that as a last resort, the results of studies performed by the Plant Protection Institute and the Plant Breeding and Acclimatization Institute in Radzików could be used, according to which **20 to 30 meter isolation between conventional and genetically modified corn ensures that the acceptable limit of unwanted GMO in agricultural products at a level of below 0.9% is maintained.**
- Should the principle of isolation be employed, we suggest the **possibility of replacing distances in isolation zones with rows in which conventional varieties would be planted.**

Spatial Isolation (a distance required to ensure that the GMO level does not exceed the maximum limit of 0.9% in conventional corn) results from a number of factors: wind speed and direction during the flowering period, relative humidity, size of the buffer zone between crops, barriers for pollen spread, sizes of donor and acceptor fields.

The United Kingdom: studies prove that a spatial isolation of 25 m ensures that the GMO content is below 0.9% and in most cases a spatial isolation of 80 m is sufficient to ensure a GMO level below 0.3%.

Ireland: a distance of 50 m is sufficient to ensure coexistence of GM and conventional corn.
Spain: the large scale studies of coexistence in field conditions proved that a minimum distance of 6-12 m between Bt and conventional corn crops ensures coexistence.
Portugal: when genetically modified corn is surrounded by 24 rows of conventional corn (so-called buffer zone), coexistence requirements are met.
The Czech Republic: the following coexistence principles have been imposed: spatial isolation between Bt and conventional corn crops is 70 m, and for Bt and organic corn it is 200 m. A separation strip may be the alternative. One row of conventional corn is equivalent to 2 m of isolation. Thirty-five rows (approx. 24.5 m) completely replace spatial isolation (70 m).
Germany: coexistence principles and Good Agricultural Practice principles in grain distribution. A separation of 20 m (conventional corn) needed in order to separate GM corn from the nearest conventional corn fields; the corn cultivated at border rows is considered GM corn.

To this end, it is necessary to initiate work on the amendment of:

- **the Act on seed production**: removal of the provision which prohibits the marketing of seed material of genetically modified plant varieties.
- **Act on animal feeds**: removal of the provision which prohibits the use of genetically modified feed components in the production of feeds.
- Adjustment of the **Draft Act on the Genetically Modified Organisms Law** to the European Union requirements and expectations of Polish farmers through the development of practical possibilities of using modern technology.
- **Development of cost-effective principles for the coexistence of conventional, organic and genetically modified production which can be fulfilled** (while respecting the European Commission's Guidelines on coexistence).
- Pursuing the interest of Polish agriculture and Polish food industry in agricultural policy rather than demagogy.
- **Rationalization of the Polish Government's position on GMO** so as not to deny farmers the access to modern technology and also not to block all initiatives for the admittance of new varieties of genetically modified plants at the European Union level.
- **Rational and subject matter discussion on GMO** (based on available scientific knowledge) both among the public and in the Polish Parliament. We hope that the voice of Polish farmers will be considered during the work on the new law which will regulate the cultivation and use of genetically modified plants.
- We also request that no additional restrictions concerning coexistence or potential disputes between neighbors should be imposed in Poland. These matters have already been provided for in the Polish legislation and there is no need to create artificial regulations which would keep farmers away from using GM technologies.

Consumers in Europe have increasingly less fear for genetically modified foods. According to the latest opinion polls, people in Europe would buy such products, provided that they were authorized for marketing by competent inspection authorities. There are a number of reasons for this change. One is that smaller amounts of pesticides are used in the production of genetically modified organisms and biodiversity is retained. The opportunity to solve the global famine issue should also be appreciated. A requirement to label foodstuffs which contain more than 0.9% of genetically modified raw materials is in force in Europe.

We appeal to the Polish Parliament to follow the interest of Polish farmers and Polish food industry for the good of Polish consumers when taking so vital decisions, such as the legal regulations concerning GMO. We expect the legal framework to ensure that the aim could be satisfied!

President
Polish Association of Cereal Producers
Stanisław Kacperczyk

End quote
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As per the above text Polish farmers, producer groups and agricultural processors are extremely concerned with the proposed text of legislation on genetically modified organisms, and especially the proposal of working regulations proposed by the Minister of Agriculture and Rural Development. Translated text is quoted below:

Draft
REGULATION OF THE MINISTER OF AGRICULTURE AND RURAL DEVELOPMENT 1)
of …….
concerning the detailed conditions for cultivating genetically modified plants
Pursuant to Art. 182(2) of the Act on genetically modified organism law of …… (Journal of Laws No…., Item …), it is hereby ordered as follows:

§ 1. The Regulation sets forth:

1) detailed conditions for cultivating genetically modified plants;
2) requirements for the maintenance of spatial isolation and selection of plants cultivated after genetically modified plants;
3) procedure for the monitoring of agricultural plots of land on which genetically modified plants were cultivated.

§ 2. A different variety of the same plant or a related plant species can be cultivated on an agricultural plot of land on which GMO plants were cultivated after the following periods:

1) 1 year: corn;
2) 6 years: rape;
3) sugar beet:
a) 8 years for seed plantations,
b) 4 years for other plantations;
4) 4 years: potato;
5) 1 year: soybean.

§ 3. The minimum spatial isolation of GMO plant crops from non-modified crops of plants of the same

or related species, divided into conventional and organic crops, is defined as follows:

No.	Type	Distance in meters not less than:	
		conventional	organic
1.	corn	500	1000
2.	rape	1000	2500
3.	sugar beet:		
	1) for seed plantations, from sources of pollen from the *Beta* genus	2000	2000
	2) for other plantations	100	100
4.	potato	50	50
5.	soybean	10	10

1) The Minister of Agriculture and Rural Development is in charge of a department of government administration for agriculture pursuant to § 1(2.1) of the Regulation of the President of the Council of Ministers of November 16, 2007 concerning the detailed scope of responsibilities of the Minister of Agriculture and Rural Development (Journal of Laws No. 216, Item 1599).

§ 4 . 1. A GMO user shall monitor an agricultural plot of land on which he cultivated GMO plants over periods referred to in § 2 in order to ascertain whether self-seeding of the plants occurred.
2. Whilst monitoring agricultural plots of land on which genetically modified plants were cultivated, a GMO user shall remove generative organs of plants on sugar beet plantations not being seed plantations.
3. Should he find on an agricultural plot of land referred to in §4.1 that self-seeding of plants of the same species as the previously cultivated GMO crop occurred, they shall be classified as genetically modified plants.
4. The occurrence or absence of self-seeding on an agricultural plot of land in consecutive years when monitoring is performed should be documented in writing and stored for 2 years after its termination.
5. Should the occurrence of self-seeding of GMO plants in the last monitoring year be found, its period period shall be extended by one year.

§ 5. The Regulation shall take effect 14 days after its publication.

MINISTER OF AGRICULTURE
AND RURAL DEVELOPMENT